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ABSTRACT

The enactment of the Telecommunications Act of 1996 contains a number of provisions that clearly affect community college and university use of telecommunications and information services. The Telecommunications Act expands the concept of universal service, or the idea that all Americans should have access to basic telephone service; requires telecommunications carriers to provide special and affordable rates for educational institutions (defined as K through 12, but possibly extended to colleges), non-profit libraries, and rural health providers; and authorizes federal departments and agencies to provide financial assistance to a new private non-profit corporation for educational technology. The most controversial provision, the Communications Decency Act (CDA), has ignited a debate over freedom of speech with respect to provisions intended to protect minors from accessing obscene or indecent material through the Internet or other telecommunications devices. Activities proscribed by the CDA include knowingly making available to minors material that is "offensive to contemporary community standards" and permitting a telecommunications facility under one's control to be used for that purpose. The CDA also creates new federal crimes for these violations. Although the act does contain some defenses to liability for service providers, it significantly affects community colleges with its risk of institutional and personal liability for violations in such areas as minor students accessing indecent material through a college computer or a faculty member exercising academic freedom. (TGI)

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Implications of the Telecommunications Act of 1996 for Community Colleges

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February 14, 1996

MEMORANDUM
for the
AMERICAN ASSOCIATION OF COMMUNITY COLLEGES

Re: IMPLICATIONS OF THE TELECOMMUNICATIONS ACT OF 1996 FOR COMMUNITY COLLEGES

On February 8, President Clinton signed into law the Telecommunications Act of 1996 ("the Act"), culminating a multi-year effort to re-write the comprehensive statute regulating telecommunications, the Communications Act of 1934. While the full impact of the Act will take some time to assess, it contains a number of provisions that clearly affect community college and university use of telecommunications and information services, ranging from the imposition of liability for allowing minors access to "obscene and indecent" material on interactive computer networks to the creation of a regime of special rates for certain classes of providers of educational and medical services. The Act also creates new distribution options, opportunities for cost savings and, perhaps most important from the perspecting of institutions, radically transforms the competitive landscape. This memorandum examines key aspects of the Act of particular importance to higher education institutions.

UNIVERSAL SERVICE

The Act restates and expands the concept of universal service established by the Communications Act of 1934, which sought to ensure that all Americans had access to basic (or what became known as "plain old telephone service" ("POTS")) at reasonable rates. This was accomplished, in part, by a mechanism to compensate telephone companies for providing POTS in areas where it was not economically viable to do so.

The new Act adds a section (§254) entitled "Universal Service," which is defined as "an evolving level of telecommunications services that the [Federal Communications] Commission shall establish periodically * * * taking into account advances in telecommunications and information technologies and services." All telecommunications carriers providing interstate service are required to contribute to the preservation and advancement of Universal Service through a "Universal Service Support Fund."

A new Federal-State Joint Board on Universal Service (the "Board") will oversee the provision of universal service. A primary function of the Board is to make recommendations to the FCC as to the composition of the bundle of services to be included in Universal Service, with the FCC making the final decision. To accomplish this, the Act directs the FCC by March 6, 1996, to initiate and refer to the Board a proceeding to recommend changes to the definition of services sustained by the Universal Service Support Fund. The Board's recommendations must be presented to the FCC by November 6, 1996 and the FCC must complete a proceeding by May 6, 1997, to implement the Board's recommendations. Subsequent Universal Service recommendations must be implemented within 12 months of their receipt and adoption by the FCC. Among the factors to be considered by the Board and the FCC in periodically assessing what services should be included within the definition of universal service are the extent to which the services in question are (1) essential to education, public health, or public safety; (2) are being deployed by telecommunications carriers in their public networks; and (3) are consistent with the public interest, convenience, and necessity.

Section 254(b) lists a number of principles that the Board and the FCC must apply to preserve and advance Congress' conception of universal service. These include (1) quality service at reasonable and affordable rates; (2) access to advanced telecommunications and information services for all, whether in urban, rural or high cost locations; and (3) access to advanced telecommunications services for schools, libraries, and rural health care.

The importance of the Universal Service concept for the higher education community, as distinguished from the old POTS approach, is the addition of education (as well as public health and safety) as mandatory elements in assessing service adequacy, as well as the emphasis on access to advanced telecommunications and information services. Whereas the amorphous "public interest, convenience and necessity" was the touchstone for five decades, there is now a specific mandate to examine the impact of Universal Service on education and to equip every household and business with the information access capabilities that until recently were enjoyed by relatively few. The open question is how broadly will the Board (and the FCC) view this mandate, and how creatively will the carriers seek to address it. There is a clear opportunity for the higher education community to play a role not only in the deliberative process of the Board and FCC, but also in the nature of the approaches that are put forward by the carriers, both in terms of defining "schools" and in the role for higher education in the context of "information services."

"AFFORDABLE" RATES

As part of their Universal Service obligation, Section 254(h) of the Act requires telecommunications carriers to provide special rates for educational institutions, non-profit libraries and rural health providers. The Act defines telecommunications carriers

to mean "any provider of telecommunications services" other than an "aggregator." Different rate schemes apply for educators and libraries, on the one hand, and health care providers, on the other.

Specifically, telecommunications carriers are required to provide educational providers and libraries within their service areas any of the universal services defined in Section 254(c)(3) at "rates less than the amounts charged for similar services to other parties." The discount must be sufficient to insure that the rates for intrastate and interstate services are "affordable." The discounts are only applicable for the delivery of educational services. While the term "educational institutions" is specifically defined as limited to K-12 entities, the FCC is given discretion to consider expanding the definition. Of more immediate importance is language in the conference committee report accompanying the bill which makes clear that "consortiums [*sic*] of educational institutions providing distance learning to elementary and secondary schools [are] to be considered an educational provider for the purposes of this section." This language appears to provide immediate access to the rate benefits of Section 254 to community colleges and other higher education institutions that are engaged with elementary and secondary schools to provide educational services. Whether in-service training provided by colleges and universities via telecommunications to K-12 teachers and other school personnel would also qualify is an open question, as is whether it will be possible to convince the FCC to include higher education institutions generally.

Rates for the delivery of health care services by public and non-profit entities for residents of rural areas of a state must be "reasonably comparable" to rates charged for similar services in urban areas of the state. Health care services include the provision of "instruction relating to such services," and "health care provider" is specifically defined to include post-secondary educational institutions offering health care instruction, teaching hospitals and medical schools, as well as consortia of health care providers. Likewise, it appears that a university medical center located in an urban area is covered by this section to the extent it provides telemedicine services to rural communities.

The Act provides that discounted rates available under Section 254 may not be sold, resold or transferred for "money or other thing of value." Clarification will be necessary to determine whether, for example, a community college that receives a discounted rate as a rural health care provider can, once it is so designated, use the same telecommunications service at that reduced rate to deliver an academic course to remote learning sites, or whether a local school district can allow a community college to use, without a profit, its telecommunications service -- at its discounted rate -- to permit the college to deliver its own courses, either into school district facilities or elsewhere.

The FCC and the states are directed by Section 706 of the Act to encourage the deployment of advanced telecommunications capabilities on a "reasonable and timely basis" throughout the country, but "in particular [for] elementary and secondary schools

and classrooms". This is to be accomplished as appropriate by price caps, regulatory forbearance and measures that promote competition in the local telecommunications market. This provision of the law is to be implemented, in part, by an FCC inquiry, which must begin within 30 months of enactment and be completed within six more, to assess progress in reaching the statutory goal. If the FCC determines that advanced telecommunications capabilities are not being deployed in a reasonable and timely manner, it is directed to take "immediate action" to accelerate deployment such as removing investment barriers and promoting competition. Since the higher education community is (and will increasingly become) a significant user of advanced telecommunications capabilities, how the mandate of Section 706 is implemented will be of considerable importance, including what reasonable and timely deployment means.

ON-LINE CONTENT LIABILITY

The most notorious provision of the Act is contained in Title V, the "Communications Decency Act of 1996" ("the CDA"). Title V, which was appended to the Act without the benefit of prior Congressional hearings, amends Section 223 of the 1934 Communications Act by adding new language that Congress intends to protect minors from accessing " obscene or indecent" material via the Internet or other telecommunications device. This is the final version of the so-called Exon Amendment which has engendered so much controversy (to the point of recently overloading the net) among those who make extensive use of the Internet, including but certainly not limited to college and university officials. What makes Title V especially contentious is its creation of new federal crimes for its violation. Senator Leahy (D-VT), during debate on adoption of the conference report, echoed the sentiments of many when he expressed concern that the CDA will have a chilling effect on speech and on the use of the technology, by "limit[ing] language used and topics discussed to that appropriate for kindergartners, just in case a minor clicks into the discussion." He noted that the mere pendency of the CDA a few months ago prompted America On-line to delete a profile of a woman who communicated with another breast cancer patient on-line because she used the word "breast." (In addition, Title V bans the use of a telecommunications device to transmit "obscene, lewd, lascivious, filthy, or indecent" material to harass, abuse or threaten another person) The measure is already the subject of a federal court challenge filed on February 8 by the American Civil Liberties Union) and Senator Leahy introduced legislation on February 9, to repeal the CDA.

Senator Exon (D-NE), the author of the progenitor of Title V, described the intent of Section 223 as "in general", aimed at creators and senders of indecent material and holding liable those who knowingly use an interactive computer service to send or display indecent material to minors. "You can't use a computer to give pornography to children," adding, again "generally", that the CDA does not impose liability on those who act like a common carrier without knowledge of the content of the message or who merely provide access to another system if the access provider has no ownership of the content. "In other words," Senator Exon said, " universities that provide access to sites on Internet which they do not control, are not liable." Where, however, a university is

found to be a "conspirator with a content producer," or owns or controls a facility, system or network that is engaged in providing prohibited information, the university could be liable under the CDA "for what's on their system." This interpretation of the CDA by its principal author starkly raises the issue of liability for the content of student and faculty material accessible through an institution's homepage, or for student or faculty materials that are maintained on the institution's server, or even for links that facilitate access to such materials.

Among the activities proscribed in the CDA and subject to a fine and/or imprisonment are:

(1) using an interactive computer service or "knowingly" permitting a telecommunications facility under one's control to be used to send a message to a specific minor, or to display in a manner available to minors, material, including images that, "in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication;"

(2) "knowingly" making, creating or soliciting and initiating by a telecommunications device any transmission of obscene or indecent material "knowing that the recipient of the communication" is under 18; or

(3) "knowingly" permitting the use of a telecommunications facility "under [one's] control" to be used for a prohibited purpose.

Section 502 provides a number of defenses to liability under the CDA. One cannot be held liable for merely providing access or connection to a telecommunications system or network (such as the Internet or the World Wide Web) not under one's control; or for the acts of an employee or agent unless the act was within the scope of employment or agency and the employer, having knowledge of the act, either ratified it or "recklessly disregard[ed] such conduct." These defenses are consistent with the notion expressed in the conference report that the law is intended to focus on content providers, rather than access providers. Move over, even with respect to one's own content, there will be no liability if one has taken "in good faith, reasonable, effective, and appropriate" steps to "restrict or prevent access by minors" to prohibited content, such as reliance on available, feasible technology or requiring the use of a verified credit or debit card, or adult access or identification number. A vital FCC proceeding will involve fulfillment of its mandate to describe measures that are, in its view, "reasonable, effective, and appropriate" to restrict access by minors. Since community colleges have a special stake in this issue, and unique circumstances governing their "control" over their sites (the issue of academic freedom looming large), active participation in this proceeding would seem essential.

Section 223 also includes a "good Samaritan" defense, overturning a New York state court decision against Prodigy which held the company potentially liable for the content of a third party because Prodigy claimed to exercise some efforts to "police" its service. The CDA wants to encourage such efforts and, therefore, it refuses to hold an access provider to a higher standard by virtue of its taking efforts to police its service.

Finally, Section 223 prohibits state and local governments from vigilante efforts to impose liability on higher education institutions, non-profit libraries and commercial entities for taking actions consistent with the enforcement of the Title V mandate, unless such liability is strictly limited to intrastate services. In describing this limitation, the conference committee report states that Congress recognizes and wants to protect non-profit libraries and higher education institutions "in providing the public with both access to electronic communications networks like the Internet, and the valuable content which they are uniquely well positioned to provide." Thus, Section 223 seeks to create a uniform nation standard by barring states and local governments from imposing liability in a way that is inconsistent with the Act's overall treatment of the same activities. However, the "intrastate" exception is a large one, and could offer aggressive prosecutors and legislators a route to harass if not ultimately harm institutions.

Regardless of the Section 223 defenses, many still fear that the CDA will stifle valuable educational, artistic, scientific and political speech because of the vagueness of the "indecency" standard and because indecency means different things to different people. Moreover, as Senator Feingold (D-WI) said during passage of the Act, the CDA will do little to protect minors while limiting free speech over the Internet because existing federal laws already subject the distribution of obscenity, child pornography and exploitation via computer networks to criminal penalties.

Because community colleges have so unique a relationship with their faculty and students, the implementation and enforcement of Title V will be significant, complex, and potentially perilous, no matter what direction is chosen. Significant issues that must be resolved quickly include what steps can be taken to limit potential liability for: minor students access "indecent" material through a computer in the school library; a student or faculty member using the college's telecommunications system to harass another; and a student's obscene homepage that is available on the college's server. Even assuming technological capacity, will those steps meet the FCC definition of "reasonable, effective and appropriate?" Will an institution be liable for a computer-based art or literature course available throughout the United States that contains what some might deem indecent material? How will an institution be able to comply with the enforcement provisions of the Act without trampling on the academic freedom of its students and faculty. These are issues that the courts and the Congress will be addressing over the next months and years; higher education must be an integral part of the process.

PAY PHONES

The Act also creates new section 276 of the Communications Act, which reforms regulation of private pay telephones. This section will benefit private pay phone operators (and, in turn, the owners of the locations where the pay phones are placed) by requiring compensation to the operator for almost every call, including 800 number calls, placed from a pay phone. Private pay phone operators also will gain the right to negotiate with location owners to determine what carrier will be used for local calls, and Bell companies will gain the power to negotiate to determine what carrier to use for long distance calls. (Other operators already have this right.) Finally, the FCC will have the power to decide how to support "public interest telephones", which are pay phones provided needed for public safety purposes but in locations that do not generate enough revenues to support themselves. The support mechanism could help to assure that pay phones are available in lightly-traveled areas of campuses where they could be used in emergencies.

TELEMEDICINE REPORT

Section 709 of the Act directs the Commerce Department's National Telecommunications and Information Administration ("NTIA), in consultation with the Department of Health and Human Services, to report to Congress by January 31, 1997, on telemedicine projects that have been funded by the federal government. Such agencies as the Public Health Service, NTIA and the Department of Agriculture have made grants for the planning and construction of telemedicine systems, many of which have gone to university-affiliated entities. The report must address patient safety, the efficacy and quality of services provided, and other legal, medical, and economic issues "related to the utilization of advanced telecommunications services for medical purposes." It is important that Institutions involved in telemedicine participate in the process of developing this report so that there interests and priorities are represented.

NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Section 708 of the Act authorizes federal departments and agencies to provide financial assistance to a newly formed private non-profit corporation, the National Education Technology Funding Corporation ("NETFC"). NETFC is intended by the authors of the Act to use these funds to leverage resources and stimulate private sector investment in education technology infrastructure, encourage states to create and upgrade interactive networks for K-12 schools and public libraries, provide loans, grants, and other types of assistance to state educational technology agencies, upgrade the delivery and development of learning through innovative technology-based tools and applications, and for related educational purposes.

In some respects, the nascent NETFC bears a resemblance to the Corporation for Public Broadcasting, which was also designed to provide an intermediary for leveraging public funds, although without CPB's federal appropriation or Presidential appointment and Senate confirmation of board members. (NETFC will be governed by a 15-member board of directors. NETFC's articles of incorporation specify that five board members must represent public schools and libraries, five must represent state governments, including individuals "knowledgeable about education and technology," and five must come from the private sector and have expertise in networking, finance and management). Without actually authorizing any Federal funds, the intent of Section 708 is to make NETFC "attractive" to federal agencies through the corporation's statutory recognition. All of this poses both an opportunity and a challenge to institutions seeking federal assistance for educational telecommunications projects from the same programs that NETFC may target, such as those administered by NTIA. On the one hand, naming NETFC as a "favored" applicant tilts the funding playing field. However, since NETFC will be a funding intermediary and not an operator of educational telecommunications services and facilities, its creation (and potential funding) affords the opportunity to access a potentially larger aggregate pool of funds, as well as to actually enter into partnerships with the corporation to enhance the competitiveness of a proposal. A key issue will be the composition of the NETFC board. Congress is clearly anticipating a board whose educators come from the elementary-secondary community. But that is not necessarily the case for all of the seats, it will be extremely important for the higher education community to have at least one responsible spokesperson within the corporation.

BROADCAST LICENSE RENEWAL

Section 204 of the Act strengthens the renewal rights of broadcast licensees, including those holding noncommercial licenses. The Act creates a new process for FCC consideration of broadcast license renewal applications, which allows competing applications only in the event that the FCC first denies renewal of an incumbent station s license. It prohibits the FCC from requiring applicants for renewal to file any information which has previously been furnished to the FCC or which is not directly material to the considerations applicable to the issue of license renewal, and also articulates the bases on which the FCC should grant license renewal applications. The Act states that the FCC is to grant renewal of a broadcast license if the station, during the preceding license term: (a) served the public interest, convenience and necessity; (b) committed no serious violations of the Communications Act or the rules and regulations of the FCC; and (c) committed no other violations of the Act or the FCC's rules which, taken together, would constitute a pattern of abuse. The new provision should greatly diminish the likelihood of a noncommercial broadcaster facing an extremely costly license renewal challenge.

Section 203 of the Act provides that the license for a broadcast station shall be for a term not to exceed eight years. Previously, the law provided for maximum terms of five years for TV stations and seven years for radio stations. The FCC will have to

engage in a rulemaking proceeding to decide the appropriate terms for radio and TV licenses; presumably, however, the FCC will extend the license terms of both radio and TV licenses to eight years. It may be, however, that the extended terms will take effect only upon renewal of broadcast stations' current licenses.

Section 403(l) of the Act provides that, if a broadcast station fails to transmit broadcast signals for any consecutive 12-month period, the station license will expire at the end of that period, notwithstanding any provision in the license to the contrary.

Section 403(m) of the Act states that the FCC shall not have the authority to waive the requirement of a permit for construction ("CP"), presumably meaning that, consistent with current FCC interpretation, the FCC will not authorize or license a facility that has been constructed prior to the issuance of a CP. However, the FCC is given the authority to adopt regulations that dispense with the requirement of a CP for minor changes to authorized broadcast stations.

BROADCAST OWNERSHIP ISSUES

In Section 202, the Act permits commercial broadcast licensees to own more radio and TV stations in any given market and also eliminates certain other ownership restrictions (such as those previously applicable to networks owning cable systems). Of relevance to certain university noncommercial television licensees, section 202(i) eliminates the statutory ban on the ownership of television stations and cable systems in the same area, which ban has heretofore restricted some noncommercial TV licensees' operation of campus cable systems. The FCC's rules continue to bar television licensees from owning cable systems within the service area of their stations, but for the first time the FCC has the authority to eliminate or waive the restriction. The Act also requires the FCC to review its ownership rules to determine whether any remaining restrictions are necessary.

ADVANCED TV PROVISIONS

Section 201 of the Act adopts a new Section 336 of the Communications Act which provides that, if the FCC determines to issue additional licenses for Advanced Television ("ATV") services, it must limit eligibility for such licenses to existing television licensees and permittees.

The FCC must also adopt regulations that will allow ATV licensees to offer "ancillary or supplementary services" as may be consistent with the public interest. This is likely to be interpreted as allowing such activities as personal communications services, data transmission, paging, and the like. However, the FCC must limit such ancillary or supplementary services so as to avoid derogation of advanced television services, including high definition television. Ancillary and supplementary services will not be entitled to must-carry status on cable television systems, but the clear implication is that ATV signals will otherwise be entitled to cable carriage under existing provisions.

In addition, the Act provides that if a licensee offers ancillary or supplementary services on a subscription basis, or if it receives compensation from a third party in return for transmitting material (other than commercial advertisements), the FCC shall impose a fee to be paid by the licensee "to recover for the public a portion of the value of the public spectrum resource made available" for such use.

The Act also provides that, as a condition of granting ATV licenses, the FCC must require that either the additional license or the original license held by the licensee be surrendered to the FCC for reallocation or reassignment.

The FCC is also required, within ten years from the date it first issues ATV licenses, to evaluate the ATV program to determine whether consumers are purchasing ATV receivers, alternate uses of ATV frequencies, and the extent to which the FCC may be able to reduce the amount of spectrum assigned to licensees (while, presumably, permitting licensees to continue their ATV operations).

The Act is silent on the issue of auctioning of ATV frequencies. This is an issue that Congress will take up as a separate matter later this year--at least the Senate Committee on Commerce, Science, and Transportation intends to hold hearings on the issue in 1996. The Act was passed only after all five FCC commissioners signed a letter to the effect that the FCC would not issue licenses for ATV channels before Congress is able to speak to the auction issue.

The Act gives the present holders of noncommercial television licenses the possibility of considerable value accruing to that license, depending upon how the FCC and the Congress ultimately act on the ATV issue. This may stem from the opportunity to provide multiple programming channels over the licensed spectrum as well as ancillary and supplementary services. However, the possibility of Congress mandating ATV spectrum auctions would jeopardize the survival of noncommercial television if there is no exemption from the auction requirement for noncommercial TV stations, or if the license would be awarded to the highest non-profit bidder without regard to whether it is the existing noncommercial licensee.

TELEPHONE COMPANY VIDEO SYSTEMS

The Act allows telephone companies to operate "open video systems" in their telephone service areas, permitting the delivery of video programming by the telcos on what amounts to a common carrier basis. This provision creates new opportunities for institutions to deliver educational services into all of the homes and businesses within their telco's service area. However, in new Section 653(b), the law suggests that the must-carry provisions of the 1992 Cable Act will apply to such operations. Community colleges should expect to see considerable competition for "wiring" their campuses between one or more telephone companies and as many cable and satellite service operators. Selecting the best relationship and negotiating the best deal will become exponentially more difficult as the choices similarly expand. Another benefit of this

section for community colleges is the ability of the local telephone company to be a potential provider for the wiring of the campus for video services.

VIDEO PROGRAMMING ACCESSIBILITY

Within six months of enactment, Section 305 of the Act requires the FCC to complete an inquiry and submit the results to the Congress on the level at which video programming is presently closed captioned. Within 18 months of enactment, the FCC must prescribe regulations to ensure that video programming first published or exhibited after enactment is "fully accessible through the provision of closed captions," except where the FCC determines that captioning of certain programs would be "economically burdensome" to the provider or owner of such programming or inconsistent with contracts in effect on the date of enactment. The Act also allows providers of video programming to petition for an exemption from these requirements if such requirements would result in an "undue burden." The FCC would then be required to engage in an analysis of the nature and cost of closed captions in the program, the impact on the operations of the provider or program owner, the financial resources of the provider or program owner, and the type of the provider's or program owner's operations (presumably referring, among other things, to the non-profit or for-profit status of the provider or owner). The Act also requires the FCC to commence an inquiry within 6 months of enactment to examine the use of video descriptions in order to ensure the accessibility of video programs to persons with visual impairments. Finally, the Act states that the provisions on video programming accessibility are not to be construed to provide a private right of action to enforce these requirements. This means that the FCC should remain the sole source of enforcement and preclude court battles on these issues.

V-CHIP

In Section 551, the Act makes the startling Congressional finding to the effect that violent and sexual TV programming is harmful to children, and that parents should be empowered to limit the negative influences of such video programming. Consequently, the Act authorizes the FCC to prescribe guidelines and procedures for the identification and rating of video programming that contains sexual, violent or other indecent material and to require distributors of such programming to transmit such ratings to permit parents to block its display. These guidelines and procedures are to be adopted in consultation with an advisory committee of parents, broadcasters, program producers and others.

In addition, the FCC is to require that television receivers shipped in interstate commerce or manufactured in the US, with a picture screen of 13 inches or greater, to be equipped with a feature to enable viewers to block display of all programs with a common rating. As new video technology is developed, the FCC is to take action to ensure that the blocking service continues to be available to consumers.

CONCLUSION

Enactment of the Telecommunications Act of 1996 presents community colleges with a wide variety of challenges and opportunities. On the plus side are the universal service and "affordable rate" provisions of the Act, the stimulus for new technologies and the fact that new providers are freed to compete to offer telecommunications and information services previously provided only by the telephone company. Electric utilities and cable TV systems will be able to offer local exchange service and local telephone companies will be able to provide long distance service and wired video service to homes and businesses providing a new and more ubiquitous electronic framework for telecommunicated learning and other institutional uses of telecommunications technology. This competition should in turn yield lower prices, greater flexibility and more options for educational institutions, as well as the opportunity for creative partnerships with the burgeoning field of telecommunications providers.

On the other hand, the Act creates significant new problems for community colleges, the most obvious being the CDA with its risk of institutional and indeed personal liability for violations. The balance to be struck between freedom of speech and inquiry on the one side, and reasonable restraints on "indecent" and otherwise injurious material being delivered to children on the other will requires years of delicate structuring, negotiations and judicial decisions. The very competitive environment that the Act is intended to foster will complicate life for institutions, increasing the number of vendors offering services that until now were largely taken for granted. And that competitive environment may also facilitate the entry of new entities into the business of providing educational services: Bill Gates University is no more an outlandish dream for the 21st Century than was that of Ezra Cornell in the 19th.

There is a great opportunity for the higher education community to be a significant player in the fleshing out of the multitude of provisions of the Act. Approximately 80 FCC proceedings must be held to implement it, many of which will directly or indirectly impact higher education in general and higher education institutions in particular. We will keep you abreast of the status of the FCC and other agency proceedings (as well as emerging court cases and potential further legislative action) so that the American Association of Community Colleges and its members can decide on how to best participate in this process.

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